

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

Alvin B. Galuten, MD, PSC,

Plaintiff

v.

Medicus Radiology Staffing, LLC,

Defendant

Civil Action No. 10-cv-155-SM

DEFENDANT MEDICUS RADIOLOGY STAFFING, LLC'S
MOTION TO COMPEL DISCOVERY FROM
PLAINTIFF ALVIN B. GALUTEN, MD, PSC

Defendant, Medicus Radiology Staffing, LLC, by and through its attorneys, Sheehan Phinney Bass + Green, P.A., hereby moves to compel overdue discovery responses from Plaintiff, and states in support as follows:

1. Defendant propounded interrogatories on Plaintiff on or about December 10, 2010. See Exhibit A attached hereto. Accordingly, Plaintiff's answers to the interrogatories were due on or about January 9, 2011. See Fed. R. Civ. P. 33(b)(2).

2. Undersigned counsel has communicated multiple times with Plaintiff's counsel by telephone, e-mail and letter regarding Plaintiff's overdue discovery responses. On February 9, 2011, Plaintiff's counsel stated in an e-mail that he would provide the answers to interrogatories by the following Tuesday, February 15. Undersigned counsel sent additional reminders to Plaintiff's counsel via e-mail and facsimile on February 16 and 17. See Exhibit B attached hereto. To date, Defendant has not received the interrogatory answers.

3. Pursuant to the parties' Discovery Plan approved by the Court on July 29, 2010, discovery is to be completed in this case by April 1, 2011. Undersigned counsel has been working to schedule the deposition of Plaintiff and repeatedly requested available dates from Plaintiff's counsel, with no response. The deposition was recently noticed for March 23, 2011, and the requested discovery is needed in order to conduct the deposition as scheduled and before the discovery deadline.

4. The granting of this Motion will not result in the continuance of any hearing, conference or trial.

5. No memorandum of law is filed herewith as the relief requested is within the sound discretion of the Court.

WHEREFORE, the Defendant Medicus Radiology Staffing, LLC requests that the Court:

A. Grant Defendant's Motion to Compel and order Plaintiff to immediately provide the requested discovery;

B. Grant to the Defendant its reasonable costs and attorneys' fees associated with the preparation and filing of this Motion; and

C. Grant such other and further relief as justice may require.

Respectfully submitted,

Medicus Radiology Staffing, LLC

By its attorneys,
Sheehan Phinney Bass + Green, P.A.

Dated: February 25, 2011

By: /s/ David W. McGrath
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Certification of Service

I hereby certify that on this 25th day of February, 2011, I electronically filed the foregoing with the Clerk of the United States District Court for the District of New Hampshire, using the CM/ECF system, which will send notification to the following counsel of record:

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/s/ David W. McGrath
David W. McGrath